

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

MARK STEPHEN CHAFFIN,	§	
	§	
VS.	§	CIVIL ACTION NO.4:06-CV-022-Y
	§	
DOUGLAS DRETKE, Director,	§	
T.D.C.J., Correctional	§	
Institutions Division,	§	
Respondent.	§	

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

In this action brought by petitioner Mark Stephen Chaffin under 28 U.S.C. § 2254, the Court has made an independent review of the following matters in the above-styled and numbered cause:

1. The pleadings and record;
2. The proposed findings, conclusions, and recommendation of the United States magistrate judge filed on May 5, 2006; and
4. The respondent's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on May 18, 2006.

In this § 2254 petition, Mark Stephen Chaffin challenges the failure to provide him credit toward the completion of his sentence for time spent on release under mandatory supervision. Petitioner has not filed objections.¹ The Court, after de novo review, concludes that the Respondent's objections must be overruled,² that the magistrate judge's findings and conclusions should be adopted, and that the petition must be dismissed without prejudice for lack of exhaustion.

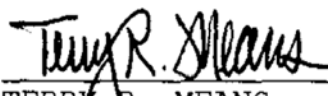
¹Chaffin's copy of the magistrate judge's report and recommendation, delivered to his address of record, was returned stamped "Return to Sender-Refused-Unable to Forward."

²The Court adopts the magistrate judge's decision not to reach the Respondent's arguments and objections regarding limitations. To the extent Chaffin asserted separate and distinct claims in this action for credit for time served on mandatory supervision, some may have been barred by limitations. See 28 U.S.C.A. § 2244(d)(1)(D) (West Supp. 2005).

Therefore, the findings, conclusions, and recommendation of the magistrate judge are ADOPTED.

Petitioner Mark Stephen Chaffin's petition for writ of habeas corpus is DISMISSED WITHOUT PREJUDICE, except as to any application of the federal statute of limitations or other federal procedural bar that may apply.³

SIGNED June 7, 2006.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

³A one-year statute of limitations is now applicable to the filing of non-capital § 2254 habeas corpus petitions in federal court. See 28 U.S.C.A. § 2244(d)(1-4)(West Supp. 2005). The statute of limitations is tolled, however, while a properly filed application for state post-conviction or other collateral review is pending. 28 U.S.C.A. § 2244(d)(2)(West Supp. 2005).